

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4774 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SHAKTI CHEMICALS

Versus

STATE OF GUJARAT

Appearance:

MR AJ PATEL for Petitioner

Mr A.G.Uraizee, AGP, for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 20/03/96

ORAL JUDGEMENT

The petitioner is a partnership firm. The land situated in village Baska in Taluka Halol, Dt: Panchmahals was the subject matter of non-agricultural permission granted on 30.10.83 by the Taluka Development Officer, Halol to the erstwhile owner and occupant of disputed land. The Competent Authority and the Taluka Development Authority granted permission to convert the land into

non-agricultural purpose and mutation entry No.1411 came to be made in revenue record pursuant to the order of the TDO. It was also certified that the disputed land came to be sold by the erstwhile owner, to whom the permission was granted, to a commercial concern, who in turn sold to the petitioner by regular sale deed dated 21.9.83 and mutation entry was also accordingly made and it was certified on 15.1.83.

2. Taluka Panchayat, Halol, granted the application of the petitioner under section 67 of the Bombay Land Revenue Code to convert the purpose. The petitioner obtained financial advance from the Gujarat State Financial Corporation. The petitioner firm is registered as a small scale industry and also obtained registration certificate dated 27.9.84

3. The respondent, State of Gujarat, issued a show cause notice to the petitioner firm after a lapse of three years for cancellation of non-agricultural permission to which petitioner replied. Thereafter, the respondent cancelled the permission by its order dated 6.3.91 in suo motu revision under section 211 of the BLR Code.

4. It is true that period of limitation for taking the matter in "suo motu" revision is not prescribed. However, it is a settled proposition of law that such a matter in "suo motu" revision should be taken within reasonable time. In the present case, the matter was taken in "suo motu" revision after more than 3 years. The permission under section 65 for conversion of the land into non-agricultural purpose came to be quashed in a suo motu revision after more than three years. In the light of the facts and circumstances and the nature of order under section 65, this Court has no hesitation in finding that the matter was taken in suo motu revision after unreasonable period. Therefore, it is required to be held as time barred. Revisional jurisdiction must be exercised within a reasonable time with respect to orders under section 65 of the BLR Code. The orders passed in other provisions stand on a different footing and those may be revised even after a period of 2 to 3 years provided no injustice is likely to take place. Therefore, power under section 211 of the Code can be exercised by the State Government in a "suo motu" revision or in appropriate proceedings or inquiry. In *Bipinchandra v. State*, 28(2) GLR 971, this Court has taken similar view. It is clearly laid down in the said decision that cases governed by section 65 read with section 211 stand on a different footing. In that case,

the order of the Secretary (Appeals) was taken in suo motu revision after a delay of one-and-a-half years. Even then, it was held that looking to the nature of permission under section 65, period of one and-a-half years is unreasonable. In that case, reliance was placed on a decision of the Supreme Court in the case of State of Gujarat v. Raghav Natha, 1969 GLR 992. Thus, the present case is directly covered by the aforesaid decision.

5. Having regard to the aforesaid facts and circumstances, this petition is required to be allowed on this sole ground. Other questions and points raised are not required to be examined in minute and great details. This petition is, therefore, allowed. The impugned order is quashed and set aside and the order of the Taluka Development Officer, Halol, granting permission for non-agricultural use of the land under section 65 of the BLR Code is restored. Rule is made absolute accordingly with no order as to costs.

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